

PATENT COOPERATION TREATY

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**NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

(PCT Rule 72.2)

Date of mailing (day/month/year) 02 October 2001 (02.10.01)
Applicant's or agent's file reference 1999/108
International application No. PCT/EP00/02043
Applicant LTS LOHMANN THERAPIE-SYSTEME AG et al

From the INTERNATIONAL BUREAU

To:

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IMPORTANT NOTIFICATION

SEINGANG LTS-PAT
25. Okt. 2001

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AU,CA,CN,JP,KR,NZ,PL,US

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

EP,BR,CZ,HU,IL,IN,MX,RU,TR,ZA

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 740.14.35	Authorized officer Odile ALIU  Telephone No. (41-22) 338.83.38
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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 1999/108	FOR FURTHER ACTION	See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No. PCT/EP00/02043	International filing date (day/month/year) 09 March 2000 (09.03.00)	Priority date (day/month/year) 17 March 1999 (17.03.99)
International Patent Classification (IPC) or national classification and IPC B65D 33/00		
Applicant	LTS LOHMANN THERAPIE-SYSTEME AG	

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 7 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of 3 sheets.

3. This report contains indications relating to the following items:

- I Basis of the report
- II Priority
- III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV Lack of unity of invention
- V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI Certain documents cited
- VII Certain defects in the international application
- VIII Certain observations on the international application

Date of submission of the demand 06 October 2000 (06.10.00)	Date of completion of this report 03 July 2001 (03.07.2001)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP00/02043

I. Basis of the report

1. This report has been drawn on the basis of (Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

the international application as originally filed.

the description, pages 1-7, as originally filed,
pages _____, filed with the demand,
pages _____, filed with the letter of _____,
pages _____, filed with the letter of _____.

the claims, Nos. _____, as originally filed,
Nos. _____, as amended under Article 19,
Nos. _____, filed with the demand,
Nos. 1-10, filed with the letter of 22 February 2001 (22.02.2001),
Nos. _____, filed with the letter of _____.

the drawings, sheets/fig 1/4-4/4, as originally filed,
sheets/fig _____, filed with the demand,
sheets/fig _____, filed with the letter of _____,
sheets/fig _____, filed with the letter of _____.

2. The amendments have resulted in the cancellation of:

the description, pages _____

the claims, Nos. _____

the drawings, sheets/fig _____

3. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

4. Additional observations, if necessary:

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III. Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

the entire international application.

claims Nos. 10

because:

the said international application, or the said claims Nos. _____ relate to the following subject matter which does not require an international preliminary examination (specify):

See supplemental sheet

the description, claims or drawings (*indicate particular elements below*) or said claims Nos. _____ are so unclear that no meaningful opinion could be formed (specify):

the claims, or said claims Nos. _____ are so inadequately supported by the description that no meaningful opinion could be formed.

no international search report has been established for said claims Nos. _____

INTERNATIONAL PRELIMINARY EXAMINATION REPORTInternational application No.
PCT/EP 00/02043**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

Continuation of: III

1. Claim 10 relates to a subject matter which, in the opinion of this Authority, falls under PCT Rule 67.1(iv). A report as to the industrial applicability of the subject matter of these claims is not therefore carried out (PCT Article 34(4)(a)(i)).

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V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	2-9	YES
	Claims	1	NO
Inventive step (IS)	Claims		YES
	Claims	2-9	NO
Industrial applicability (IA)	Claims	1-9	YES
	Claims		NO

2. Citations and explanations

The report makes reference to the following documents:

D1: FR-A-2 629 797 (RAFFEGEAU DIDIER) 13 October 1989 (1989-10-13)

D2: CH-A-339 119 (VATTER) 31 May 1959 (1959-05-31).

1. The present application does not satisfy the criterion of PCT Article 33(2) because the subject matter of Claim 1 is not novel over the prior art as defined in the Regulations (PCT Rule 64.1 - 64.3).
 - 1.1 Document D2, considered the closest prior art, discloses (cf. the figure, and page 1, column 1, lines 17 to 29) a cumulative packaging for extracting individual pouches (1) which have an interior and an edge enclosing this interior and of which at least two are pressed together to form a block, wherein inside this block a section of the edge (column 1, lines 16 to 23) of a first pouch lies substantially on top of the section of the edge of an adjacent second pouch and the sections of the edges of the respective adjacent pouches lying one

on top of the other in this manner are fixed together, said pouches having different contents which can be removed in a predetermined order.

The subject matter of the claim is not therefore novel (PCT Article 33(2)).

- 1.2 The features of dependent Claims 2-6 are considered to be standard technical procedures for solving the problem of interest.
2. Document D1 discloses a method from which the subject matter of Claim 7 differs only in that the corners of the sections, which lie one on top of the other, of the edges of the product-filled pouches are displaced in a parallel manner.

However, this distinguishing method step is considered to be straightforward for a person skilled in the art, especially since the advantages achieved thereby are immediately foreseeable.

It follows that the subject matter of Claim 7 does not involve an inventive step (PCT Article 33(3)).

- 2.1 The additional features of dependent Claims 8 and 9 are known from D1 - cf. Fig. 2, reference sign 7 for Claim 8 and Fig. 3, reference sign 5 for Claim 9.

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VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

1. Contrary to PCT Rule 5.1(a) (ii), the description does not cite document D1 or indicate the relevant prior art disclosed therein.
2. Pursuant to PCT Rule 11.11(a), the drawings may not contain text matter.

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. The application does not meet the requirements of PCT Article 6 because Claims 1 and 7 are not clear.

The generic term used in Claim 1 does not make it clear and unambiguous whether the individual pouches are part of the cumulative packaging.

The feature (Claim 1, final line, and Claim 7, line 5) "...which can be extracted in a predetermined order" clearly relates merely to the use of the cumulative packaging, and it is unclear if it is intended to define any structural features of the cumulative packaging or the method.

The feature that "the corners...are displaced in a parallel manner" (Claim 7, paragraph b) is not clear. It appears from the description and Fig. 7 that the corners of two edges lying one on top of the other are displaced relative to one another and transversally to the lengthwise extension of the edges. However, this interpretation does not appear to be clearly supported by the description and the drawings.